

To: Cora, Lori[Cora.Lori@epa.gov]
Cc: Grandinetti, Cami[Grandinetti.Cami@epa.gov]; Woolford, James[Woolford.James@epa.gov]; Ingemansen, Dean[Ingemansen.Dean@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]
From: McLerran, Dennis
Sent: Thur 2/4/2016 10:18:22 PM
Subject: Re: Draft Mutual Settlement Letter

Lori:

The language is fine with me. Thanks for the hard work on this.

Dennis
Sent from my EPA iPhone

On Feb 4, 2016, at 12:33 PM, Cora, Lori <Cora.Lori@epa.gov> wrote:

Hello, attached are some changes the LWG have asked for to our letter and they will sign. Stephanie and I feel that all the changes are ok. The changes to the second paragraph don't impact EPA's position on what the December 2012 letter said.

Taking out the "At this time" phrases are not as relevant now we have agreement. We discussed that EPA will finalize this letter, add a line "Accepted and Agreed" line for Bob Wyatt to sign as the authorized representative for the LWG.

Patty said it would be most appreciated if we could get something back to them no later than 4 p.m. today.

Please let us know if these changes are ok with you, and we will finalize it for Cami's signature. Cami, are you in the office? Can someone sign for you?

Lori Houck Cora | Assistant Regional Counsel
U.S. Environmental Protection Agency | Region 10
P: (206) 553.1115 | F: (206) 553.1762 | cora.lori@epa.gov

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From: Patty Dost [<mailto:pdost@pearllegalgroup.com>]
Sent: Thursday, February 04, 2016 12:18 PM

To: Cora, Lori <Cora.Lori@epa.gov>
Subject: RE: Draft Mutual Settlement Letter

From: Cora, Lori [mailto:Cora.Lori@epa.gov]
Sent: Thursday, February 4, 2016 9:23 AM
To: Patty Dost <pdost@pearllegalgroup.com>
Cc: Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; Ingemansen, Dean <Ingemansen.Dean@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>
Subject: RE: Draft Mutual Settlement Letter

Hello, Patty. The full paragraph below is important to EPA to show the level of coordination and opportunities to comment on the FS that the LWG has had and that EPA is considering them in finalizing the FS. I would think it would help the LWG to have it in the letter when you seek recovery of costs incurred in doing such coordination/commenting.

We accept your rephrasing to obligation #3.

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From: Patty Dost [mailto:pdost@pearllegalgroup.com]
Sent: Wednesday, February 03, 2016 5:39 PM
To: Cora, Lori <Cora.Lori@epa.gov>
Cc: Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>
Subject: RE: Draft Mutual Settlement Letter

Lori, thank you for this. I have two initial questions. First, does EPA still need this paragraph?

By letter dated, December 18, 2012, EPA notified the LWG that we did not approve its March 2012 draft FS, and listed key deficiencies. After the disapproval notice, we agreed to coordinate our proposed modifications section by section with the LWG, as documented in the Portland Harbor Superfund Site Revision Process for Feasibility Study, modified December 15, 2014. In accordance with the agreed process, the EPA shared Sections 1 and 2 on July 8, 2014, and February 23, 2015, and the LWG and EPA discussed the LWG's comments on those sections. We provided Section 3 on July 29, 2015 and Section 4 on August 7, 2015. Since release of those sections, the LWG has met to talk through the Decision Trees on November 2, 2015, and December 3, 2015, and the LWG has provided extensive comments on those sections. The EPA is considering the LWG's comments and will make appropriate changes in the revised final FS. The LWG provided the National Remedy Review Board and Contaminated Sediments Technical Advisory Group (collectively "the Boards") with comments and concerns on the FS and direction of the cleanup for Portland Harbor. The Region is also considering those comments in revising the FS.

Since we are agreeing to EPA's production of the final FS, we don't believe this information is necessary to support the following paragraph, and we would prefer to delete it.

Second, we would prefer to rephrase our obligation #3 upon receipt of the letter to something like, "not pursue any other legal claims or process related to EPA's production of the final FS." Our understanding is that this settlement would resolve only those legal claims, processes and requests for dispute resolution (via ADR or otherwise) arising out of EPA's decision to complete production of the FS, and we would like to avoid any possible interpretation of this later as restricting any future claim or defense we may have related to EPA's final FS itself.

I will forward to the LWG now and check in with you in the morning.

Patty

From: Cora, Lori [<mailto:Cora.Lori@epa.gov>]
Sent: Wednesday, February 3, 2016 5:17 PM
To: Patty Dost <pdost@pearllegalgroup.com>
Cc: Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>
Subject: Draft Mutual Settlement Letter

Hello, Patty. As we discussed today, attached is a draft of the letter that would document the mutual agreements reached between the LWG and EPA and resolve the January 19, 2016 dispute. This letter would supersede the January 4 letter as noted in the attached draft. If this letter is acceptable to the LWG, we need to discuss how the LWG will transmit in writing its agreement tomorrow. Thanks for your help.

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<draft settlement letter 2-3-16 lwg redlines.docx>